

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

LULA HENRY,)	
)	
Plaintiff,)	
)	
v.)	
)	CV-07-RRA-2188-S
SOUTHERNCARE, INC.)	
)	
Defendant.)	

MEMORANDUM OPINION

A report and recommendation was signed on December 17, 2008 and entered on December 18, 2008, wherein the magistrate recommended that the defendant's motion for partial summary judgement be granted and the plaintiff's gender discrimination claim dismissed. On February 12, 2008, an amended report and recommendation was filed which also recommended that the defendant's motion for partial summary judgment be granted on the plaintiff's gender discrimination claim, but that the motion be denied otherwise. Both the plaintiff and the defendant have filed objections.¹

Having carefully reviewed and considered de novo all the materials in the court file, including the report and recommendation, the court is of the opinion that the magistrate judge's report is due to be and is hereby **ADOPTED** and his recommendation is **ACCEPTED**. The court **EXPRESSLY FINDS** that, as to the plaintiff's gender discrimination claim, there are no genuine

¹The court has personally read the following court documents filed in the record: docs. 14, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28 and 29. The court has also read the case law cited by counsel. Although defendant is obviously free to move for summary judgment as to the allegation in paragraph 20 of plaintiff's Amended Complaint, the court is of the opinion that this disparate treatment claim is not barred for failure to exhaust administrative remedies.

issues of material fact and that the defendants are entitled to judgment as a matter of law. In that respect, the defendant's motion for summary judgment is due to be **GRANTED** and that claim is due to be **DISMISSED WITH PREJUDICE**. In all other respects the motion is due to be **DENIED**.

DONE this the 16th day of March, 2009.

A handwritten signature in black ink, reading "Sharon Lovelace Blackburn", written in a cursive style.

SHARON LOVELACE BLACKBURN
CHIEF UNITED STATES DISTRICT JUDGE